UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,809	05/31/2001	Kazuaki Nakajima	P/289-165	1249

7590 08/29/2008

STEVEN I. WEISBURD, ESQ.
DICKSTEIN SHAPIRO MORIN & OSHINSKY, LLP
1177 AVENUE OF THE AMERICAS- 41ST FLOOR
NEW YORK, NY 10036-2714

EXAMINER	
BAYARD, DJENANE M	

ART UNIT	PAPER NUMBER
2141	

MAIL DATE	DELIVERY MODE
08/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/870,809	NAKAJIMA, KAZUAKI	
	Examiner	Art Unit	
	DJENANE M. BAYARD	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1, 3, 7, 9-10, 15-19, 21-22, 23, 25-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,7,9,10,15-19,21-23,25 and 26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to communication filed on 6/02/08 in which claims 1, 3, 7, 9-10, 15-19, 21-22, 23-, 25-26 are pending.

Response to Arguments

2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Schroeder teaches wherein client terminal having a browser and a processor, said server and said client terminal being connectable with each other via a communications network, comprising the steps of: a) transmitting a first request packet from said browser to one of said plurality of servers for requesting identity of an intended server maintaining a shared data file (See page 3, paragraph [0037]*, many image file servers can be dispersed throughout the system*) ; b) receiving the first request packet at said one server and transmitting therefrom server specific information to said browser, indicating the identity of the intended server ((See page 3, paragraph [0037], *The server sends its file response to the URL request in the form of instructions to the browser as to where it can find the images. Furthermore, it is inherent to one*

with ordinary skill in the art that the identity of the intended server is contained in the reply in order for the browser to send the second request directly to the intended server); c) receiving said server specific information at said browser; d) transmitting a second request packet from the processor containing the identity of said intended server to said network for requesting downloading of said shared data file, whereby the second request packet is automatically routed through the network to the intended server; to a server specified by the received server specific information; and e) receiving the second request packet at the intended server and downloading the requested shared data file from the intended server to said processor, and storing the downloaded shared data file in said memory device; (See page 3 paragraph 0037]). Bittinger et al teaches transferring a differential data (See col. 3, lines 28-67). The combination proposed by Schroeder and Bittinger et al is proper since they both teach the transfer of data from one node to another. The teaching of Bittinger et al would have improved the claimed invention of Schroeder to provide a communication system that reduces the amount of data to be transferred by transferring only differential data that represents an update of a cache version of the same data.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1, 7, 10, 14, 15-19, 22-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2001/0037266 to Schroeder in view of U.S. Patent No. 5,859971 to Bittinger et al and further in view of U.S. Patent No. 6,647415 to Olarig et al.

a. As per claims 1 and 15-18, Schroeder teaches a method of identifying a server from a client terminal having a browser and a processor, said server and said client terminal being connectable with each other via a communications network, comprising the steps of: a) transmitting a first request packet from said browser to one of said plurality of servers for requesting identity of an intended server maintaining a shared data file (See page 3, paragraph [0037*], many image file servers can be dispersed throughout the system*) ; b) receiving the first request packet at said one server and transmitting therefrom server specific information to said browser, indicating the identity of the intended server ((See page 3, paragraph [0037], *The server sends its file response to the URL request in the form of instructions to the browser as to where it can find the images. Furthermore, it is inherent to one with ordinary skill in the art that the identity of the intended server is contained in the reply in order for the browser to send the second request directly to the intended server)*; c) receiving said server specific information at said browser; d) transmitting a second request packet from the processor containing the identity of said intended server to said network for requesting downloading of said shared data file,

whereby the second request packet is automatically routed through the network to the intended server; to a server specified by the received server specific information (*It is inherent to one with ordinary skill in the art that the second request contained the identity of the intended server in order for the browser to send the request directly to the intended server)*; and e) receiving the second request packet at the intended server and downloading the requested shared data file from the intended server to said processor, and storing the downloaded shared data file in said memory device; (See page 3 paragraph 0037]). However, Schroeder fails to teach f) transmitting from the intended server to said processor differential data representing a difference between an updated version said data file currently maintained by the intended server and the shared data file that was downloaded in step (e) wherein the server specific information transmitted to said browser contains the identify of a second server if said shared data file has been moved from said intended server to said second server

Bittinger et al teaches wherein the difference data is sent to the second computer over the external link (See col. 3, lines 28-67).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Bittinger et al in the claimed invention of Schroeder in order to reduce the amount of communication over the external communication link both in the frequency of the communications and in the amount of information which must be transferred over the communication link (See col. 7, lines 55-60). Schroeder in view of Bittinger et al fails to teach wherein the server specific information transmitted to said browser contains the identify of a second server if said shared data file has been moved from said intended server to said second server

Olarig et al teaches wherein the server specific information transmitted to said browser contains the identify of a second server if said shared data file has been moved from said intended server to said second server (See col. 4, lines 36-48).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Olarig et al in the claimed invention of Schroeder in view of Bittinger et al in order to migrate files via transparent overflow (See col. 4, lines 18-20).

b. As per claim 7, Schroeder teaches a communications network; a plurality of servers connected to the network; and a client terminal connected to the network, the client terminal having a processor and a browser, the browser transmitting a first request packet to one said plurality of servers for requesting identity of a server that maintains a shared data file (See page 3, paragraph [0037]); said one of said servers being responsive to said first request packet for transmitting server specific information to said browser for indicating the identity of an intended server (See page 3, paragraph [0037], *The server sends its file response to the URL request in the form of instructions to the browser as to where it can find the images. Furthermore, it is inherent to one with ordinary skill in the art that the identity of the intended server is contained in the reply in order for the browser to send the second request directly to the intended server)*, said processor being responsive to the received information for transmitting a second request packet containing the identity of the intended server to said network for requesting downloading of the shared data file, whereby the second request packet is automatically routed through the network to said intended server, said processor being configured to store a said shared data file into said memory device when the same is downloaded from said intended server and the

intended server downloading shared data file to said processor in response to said second request packet (See page 3, paragraph [0037]). Remarks: It is inherent that the client terminal has a processor in order to process the request and the response from the server). However, Schroeder fails to teach transmitting to the processor differential data representing a difference between an updated version of shared data file currently maintained by the intended server and the shared data file that was downloaded in response to said second request packet, wherein said server specific information contains the identify of a second server if the shared data file has been moved from said intender server to said second server.

Bittinger et al teaches wherein the difference data is sent to the second computer over the external link (See col. 3, lines 28-67).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Bittinger et al in the claimed invention of Schroeder in order to reduce the amount of communication over the external communication link both in the frequency of the communications and in the amount of information which must be transferred over the communication link (See col. 7, lines 55-60). However, Schroeder in view of Bittinger fails to teach wherein said server specific information contains the identify of a second server if the shared data file has been moved from said intender server to said second server.

Olarig et al teaches said server specific information contains the identify of a second server if the shared data file has been moved from said intender server to said second server (See col. 4, lines 36-48).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Olarig et al in the claimed invention of Schroeder in view of Bittinger et al in order to migrate files via transparent overflow (See col. 4, lines 18-20).

c. As per claims 10 and 14, Schroeder in view of Bittinger et al and further in view of Olarig et al teaches the claimed invention as described above. Furthermore, Schroeder teaches wherein said intended server is configured to receive server specific information from another server of the network and transmits the received server specific information to said browser (See page 3, paragraph [0037]).

d. As per claims 19 and 23, Schroeder teaches a method of downloading a shared data file form a communications network, comprising a) transmitting a first request packet form a client terminal to said communications network (See page 3, paragraph [0037]); b) receiving said first request packet at one of a plurality of severs via said communications network (See page 3, paragraph [0037]) c) transmitting server-specific information from said one server to said client terminal, identifying a first intended server that maintains said shared data file (See page 3, paragraph [0037]). Furthermore, Schroeder teaches transmitting server-specific information from said one server to said client terminal, identifying a first intended server that maintains said shared data file (See paragraph [0037]). However, Schroeder fails to teach said server-specific information identifying a second intended server if the shared data filed has been moved from said first intended server to said second intended; and transmitting a second request from said client terminal to said network in response to said server specific information and downloading

said shared data file from the one of the first and second intended servers identified by the server-specific information and transmitting differential data from the server from which said client terminal downloaded shared data file, and receiving the differential data at said client terminal, said differential data representing a difference between an updated version of said shared data file currently maintained and the shared data file that was downloaded in step d.

Bittinger et al teaches wherein the difference data is sent to the second computer over the external link (See col. 3, lines 28-67).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Bittinger et al in the claimed invention of Schroeder in order to reduce the amount of communication over the external communication link both in the frequency of the communications and in the amount of information which must be transferred over the communication link (See col. 7, lines 55-60). However,

Olarig et al teaches said server-specific information identifying a second intended server if the shared data filed has been moved from said first intended server to said second intended; and transmitting a second request from said client terminal to said network in response to said server specific information and downloading said shared data file from the one of the first and second intended servers identified by the server-specific information (See col. 4, lines 18-48).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Olarig et al in the claimed invention of Schroeder in order to migrate files via transparent overflow (See col. 4, lines 18-20).

e. As per claims 22 and 26, Schroeder teaches the claimed invention as described above. Furthermore, Schroeder teaches the steps of receiving, at said first intended server, server specific information that identifiers said second intended server when the shared data file has been moved form said first intended server to said second intended server and transmitting the received server specific information to said client terminal (See page 3, paragraph [0037]).

5. Claims 3, 9, 13, 21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2001/0037266 to Schroeder in view of U.S. Patent No. 5,859971 to Bittinger et al and further in view of U.S. Patent No. 6,447415 to Olarig et al as applied to claims 1, 4, 7, 11, 19 and 23 above, and further in view of U.S. Patent No. 5,852,717 to Bhide et al.

a. As per claims 3, 9, 13, 21 and 25, Schroeder in view of Bittinger et al a and further in view of Olarig et al teaches the claimed invention as described above. However, Schroeder in view of Bittinger et al a and further in view of Olarig et al fails to teach wherein said network includes a cache memory, and wherein said second request packet contains an identifier identifying said shared data file, said identifier being determined for each access from said processor to said intended server so that the shared data file identified by said identifier does not coincide with data stored in said cache memory.

Bhide et al teaches wherein said network includes a cache memory, and wherein said second request packet contains an identifier identifying said shared data file, said identifier being determined for each access from said processor to said server so that the shared data file

identified by said identifier does not coincide with data stored in said cache memory (See col. 12, lines 15-35)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein said network includes a cache memory, and wherein said second request packet contains an identifier identifying said shared data file, said identifier being determined for each access from said processor to said server so that the shared data file identified by said identifier does not coincide with data stored in said cache memory as taught by Bhide et al in the claimed invention of Schroeder in view of Bittinger et al and further in view of Olarig et al in order to set up the cache of information and realize a performance increase (See col. 8, lines 1-3).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DJENANE M. BAYARD whose telephone number is (571)272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144

Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination	
	09/870,809	NAKAJIMA, KAZUAKI	
	Examiner	Art Unit	
	DJENANE M. BAYARD	2141	